

AMENDED IN SENATE JULY 6, 2012
AMENDED IN SENATE JUNE 21, 2012
AMENDED IN ASSEMBLY MAY 25, 2012
AMENDED IN ASSEMBLY APRIL 26, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1565

Introduced by Assembly Member Fuentes
(Coauthor: Senator Alquist)

January 30, 2012

An act to ~~amend, repeal, and add Section 20111.5 of, and to add and repeal Section 20111.6 of;~~ the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1565, as amended, Fuentes. Public contracts: school districts: bidding requirements.

Under existing law, the governing board of a school district may require each prospective bidder for specified contracts to submit a standardized questionnaire and financial statement, including information relating to financial ability and experience in performing public works, which is required to be verified under oath. Existing law further requires a school district requiring the above information to adopt and apply a uniform system of rating bidders on the basis of the completed questionnaires and financial statements, as specified.

~~This bill, until January 1, 2019, would require the questionnaire and uniform system of rating bidders described above to cover, at a minimum, the issues covered by the standardized questionnaire and~~

~~model guidelines for rating bidders developed by the Department of Industrial Relations, as specified. This bill would provide that the questionnaire and uniform system of rating bidders described above shall not preclude the governing board of the district from prequalifying or disqualifying a subcontractor. This bill would provide that these provisions would not apply to school districts with an average daily attendance of less than 2,500. This bill would provide that bidders would include the prime contractor and, if utilized, all electrical, mechanical, and plumbing subcontractors. This bill would require a school district to provide a list of prequalified bidders to all bidders at least 2 business days prior to the dates fixed for the public opening of sealed bids for specified public projects.~~

This bill, for contracts awarded on and after January 1, 2014, and until January 1, 2019, would also require the governing board of the district, except for school districts with an average daily attendance of less than 2,500, for certain public projects, ~~if the governing board of the district chooses not to follow the uniform system of rating bidders described above,~~ to use other procedures, which require a standardized questionnaire and financial statement to be verified under oath, for bidding applicable to public entities, as prescribed. *This bill would require the questionnaire and uniform system of rating bidders to cover, at a minimum, the issues covered by the standardized questionnaire and model guidelines for rating bidders developed by the Department of Industrial Relations, as specified. This bill would provide that the questionnaire and uniform system of rating bidders would not preclude the governing board of the district from prequalifying or disqualifying a subcontractor. This bill would provide that bidders would include the general contractor and, if utilized, all electrical, mechanical, and plumbing subcontractors. This bill would authorize the board of the district to establish a process for prequalifying prospective bidders on a quarterly or annual basis, as provided.* The bill would also require the Director of Industrial Relations, on or before January 1, 2018, to submit a report to the Legislature evaluating whether labor violations have decreased, as specified, and to recommend improvements to the system for prequalifying contractors and subcontractors on school district projects. By expanding the scope of an existing crime and by imposing new duties on local officials, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 20111.5 of the Public Contract Code is~~
2 ~~amended to read:~~
3 ~~20111.5. (a) The governing board of the district may require~~
4 ~~that each prospective bidder for a contract, as described under~~
5 ~~Section 20111, complete and submit to the district a standardized~~
6 ~~questionnaire and financial statement in a form specified by the~~
7 ~~district, including a complete statement of the prospective bidder's~~
8 ~~financial ability and experience in performing public works. The~~
9 ~~questionnaire and financial statement shall be verified under oath~~
10 ~~by the bidder in the manner in which civil pleadings in civil actions~~
11 ~~are verified. The questionnaires and financial statements shall not~~
12 ~~be public records and shall not be open to public inspection.~~
13 ~~(b) Any school district requiring prospective bidders to complete~~
14 ~~and submit questionnaires and financial statements, as described~~
15 ~~in subdivision (a), shall adopt and apply a uniform system of rating~~
16 ~~bidders on the basis of the completed questionnaires and financial~~
17 ~~statements, in order to determine the size of the contracts upon~~
18 ~~which each bidder shall be deemed qualified to bid.~~
19 ~~(c) The questionnaire described in subdivision (a), and the~~
20 ~~uniform system of rating bidders described in subdivision (b), shall~~
21 ~~cover, at a minimum, the issues covered by the standardized~~
22 ~~questionnaire and model guidelines for rating bidders developed~~
23 ~~by the Department of Industrial Relations pursuant to subdivision~~
24 ~~(a) of Section 20101.~~
25 ~~(d) Each prime contractor providing a bid on any contract~~
26 ~~described under Section 20111 shall be furnished by the school~~

1 district letting the contract with a standardized proposal form that,
2 when completed and executed, shall be submitted as his or her bid.
3 Bids not presented on the forms so furnished shall be disregarded.

4 (e) A proposal form required pursuant to subdivision (d) shall
5 not be accepted from any person or other entity that is required to
6 submit a completed questionnaire and financial statement for
7 prequalification pursuant to subdivision (a) or from any person or
8 other entity that uses a subcontractor that is required to submit a
9 completed questionnaire and financial statement for
10 prequalification pursuant to subdivisions (a) and (i), but has not
11 done so at least 10 business days prior to the date fixed for the
12 public opening of sealed bids or has not been prequalified, pursuant
13 to subdivision (b), for at least five business days prior to that date.

14 (f) If a public project covered by this section includes electrical,
15 mechanical, or plumbing components that will be performed by
16 electrical, mechanical, or plumbing subcontractors, a list of
17 prequalified prime contractors and electrical, mechanical, and
18 plumbing subcontractors shall be made available by the school
19 district to all bidders at least two business days prior to the dates
20 fixed for the public opening of sealed bids.

21 (g) Notwithstanding subdivision (e), any school district may
22 establish a process for prequalifying prospective bidders pursuant
23 to this section on a quarterly basis and may authorize that
24 prequalification to be considered valid for up to one calendar year
25 following the date of initial prequalification.

26 (h) This section shall not preclude the governing board of the
27 district from prequalifying or disqualifying a subcontractor.

28 (i) For purposes of this section, bidders shall include the prime
29 contractor and, if utilized, all electrical, mechanical, and plumbing
30 subcontractors.

31 (j) For purposes of this section, electrical, mechanical, and
32 plumbing subcontractors are contractors licensed pursuant to
33 Section 7058 of the Business and Professions Code, specifically
34 contractors holding C-4, C-7, C-10, C-16, C-20, C-34, C-36, C-38,
35 C-42, C-43, and C-46 licenses, pursuant to regulations of the
36 Contractors State License Board.

37 (k) The amendments made by the act adding this subdivision
38 shall not apply to a school district with an average daily attendance
39 of less than 2,500.

1 ~~(f) This section shall become inoperative on January 1, 2019,~~
2 ~~and, as of July 1, 2019, is repealed.~~

3 ~~SEC. 2. Section 20111.5 is added to the Public Contract Code,~~
4 ~~to read:~~

5 ~~20111.5. (a) The governing board of the district may require~~
6 ~~that each prospective bidder for a contract, as described under~~
7 ~~Section 20111, complete and submit to the district a standardized~~
8 ~~questionnaire and financial statement in a form specified by the~~
9 ~~district, including a complete statement of the prospective bidder's~~
10 ~~financial ability and experience in performing public works. The~~
11 ~~questionnaire and financial statement shall be verified under oath~~
12 ~~by the bidder in the manner in which civil pleadings in civil actions~~
13 ~~are verified. The questionnaires and financial statements shall not~~
14 ~~be public records and shall not be open to public inspection.~~

15 ~~(b) Any school district requiring prospective bidders to complete~~
16 ~~and submit questionnaires and financial statements, as described~~
17 ~~in subdivision (a), shall adopt and apply a uniform system of rating~~
18 ~~bidders on the basis of the completed questionnaires and financial~~
19 ~~statements, in order to determine the size of the contracts upon~~
20 ~~which each bidder shall be deemed qualified to bid.~~

21 ~~(c) Each prospective bidder on any contract described under~~
22 ~~Section 20111 shall be furnished by the school district letting the~~
23 ~~contract with a standardized proposal form that, when completed~~
24 ~~and executed, shall be submitted as his or her bid. Bids not~~
25 ~~presented on the forms so furnished shall be disregarded.~~

26 ~~(d) A proposal form required pursuant to subdivision (c) shall~~
27 ~~not be accepted from any person or other entity that is required to~~
28 ~~submit a completed questionnaire and financial statement for~~
29 ~~prequalification pursuant to subdivision (a), but has not done so~~
30 ~~at least five days prior to the date fixed for the public opening of~~
31 ~~sealed bids or has not been prequalified, pursuant to subdivision~~
32 ~~(b), for at least one day prior to that date.~~

33 ~~(e) Notwithstanding subdivision (d), any school district may~~
34 ~~establish a process for prequalifying prospective bidders pursuant~~
35 ~~to this section on a quarterly basis and may authorize that~~
36 ~~prequalification to be considered valid for up to one calendar year~~
37 ~~following the date of initial prequalification.~~

38 ~~(f) This section shall become operative on January 1, 2019.~~

1 ~~SEC. 3.~~

2 ~~SECTION 1.~~ Section 20111.6 is added to the Public Contract
3 Code, to read:

4 20111.6. (a) This section shall apply only to public projects,
5 as defined in subdivision (c) of Section 22002, for which the
6 governing board of the district uses funds received pursuant to the
7 Leroy F. Greene School Facilities Act of 1998 (Chapter 12.5
8 (commencing with Section 17070.10) of Part 10 of Division 1 of
9 Title 1 of the Education Code) or any funds from any future state
10 school bond for a public project that involves a projected
11 expenditure of one million dollars (\$1,000,000) or more.

12 (b) If the governing board of the district ~~does not utilize the~~
13 ~~procedures set forth in Section 20111.5 for~~ enters into a contract
14 meeting the criteria of subdivision (a), then the governing board
15 of the district shall ~~use the procedures for qualification of bidders~~
16 ~~set forth in Section 20101.~~ require that prospective bidders for a
17 construction contract complete and submit to the board of the
18 district a standardized prequalification questionnaire and financial
19 statement. The questionnaire and financial statement shall be
20 verified under oath by the bidder in the manner in which civil
21 pleadings in civil actions are verified. The questionnaires and
22 financial statements shall not be public records and shall not be
23 open to public inspection.

24 (c) The board of the district shall adopt and apply a uniform
25 system of rating bidders on the basis of the completed
26 questionnaires and financial statements.

27 (d) The questionnaire and financial statement described in
28 subdivision (b), and the uniform system of rating bidders described
29 in subdivision (c), shall cover, at a minimum, the issues covered
30 by the standardized questionnaire and model guidelines for rating
31 bidders developed by the Department of Industrial Relations
32 pursuant to subdivision (a) of Section 20101.

33 (e) Each prospective bidder shall be furnished by the school
34 district letting the contract with a standardized proposal form that,
35 when completed and executed, shall be submitted as his or her
36 bid. Bids not presented on the forms so furnished shall be
37 disregarded.

38 (f) A proposal form required pursuant to subdivision (e) shall
39 not be accepted from any person or other entity that is required
40 to submit a completed questionnaire and financial statement for

1 *prequalification pursuant to subdivision (b) or from any person*
2 *or other entity that uses a subcontractor that is required to submit*
3 *a completed questionnaire and financial statement for*
4 *prequalification pursuant to subdivision (b), but has not done so*
5 *at least 10 business days prior to the date fixed for the public*
6 *opening of sealed bids or has not been prequalified for at least*
7 *five business days prior to that date.*

8 *(g) The board of the district may establish a process for*
9 *prequalifying prospective bidders pursuant to this section on a*
10 *quarterly or annual basis and a prequalification pursuant to this*
11 *process shall be valid for one calendar year following the date of*
12 *initial prequalification.*

13 *(h) This section shall not preclude the governing board of the*
14 *district from prequalifying or disqualifying a subcontractor.*

15 ~~(e)~~

16 *(i) For purposes of this section, bidders shall include the prime*
17 *general contractor and, if utilized, all electrical, mechanical, and*
18 *plumbing subcontractors.*

19 ~~(d)~~

20 *(j) If a public project covered by this section includes electrical,*
21 *mechanical, or plumbing components that will be performed by*
22 *electrical, mechanical, or plumbing contractors, a list of*
23 *prequalified prime general contractors and electrical, mechanical,*
24 *and plumbing subcontractors shall be made available by the school*
25 *district to all bidders at least two five business days prior to the*
26 *dates fixed for the public opening of sealed bids.*

27 ~~(e)~~

28 *(k) For purposes of this section, electrical, mechanical, and*
29 *plumbing subcontractors are contractors licensed pursuant to*
30 *Section 7058 of the Business and Professions Code, specifically*
31 *contractors holding C-4, C-7, C-10, C-16, C-20, C-34, C-36, C-38,*
32 *C-42, C-43, and C-46 licenses, pursuant to regulations of the*
33 *Contractors' State License Board.*

34 ~~(f)~~

35 *(l) This section shall not apply to a school district with an*
36 *average daily attendance of less than 2,500.*

37 ~~(g)~~

38 *(m) This section shall apply only to contracts awarded on or*
39 *after January 1, 2014.*

40 ~~(h)~~

(n) (1) On or before January 1, 2018, the Director of Industrial Relations shall (A) submit a report to the Legislature evaluating whether, during the years this section has applied to contracts, violations of the Labor Code on school district projects have decreased as compared to the same number of years immediately preceding the enactment of this section, and (B) recommend improvements to the system for prequalifying contractors and subcontractors on school district projects.

(2) A report to be submitted pursuant to this subdivision shall be submitted in compliance with Section 9795 of the Government Code.

(i) This section shall become inoperative on January 1, 2019, and, as of July 1, 2019, is repealed.

~~SEC. 4.~~

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.